

UNITED STATES DISTRICT COURT

for the
District of New MexicoFILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICOUnited States of America
v.Randall James Martinez
YOB: 1991

Case No.

16mj 99

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CLERK-ALBUQUERQUE

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 22, 2015 in the county of Cibola in the
State & District of New Mexico, the defendant(s) violated:

Code Section

18 USC 1153; 113(A)(6)

Offense Description

The defendant, Randall James Martinez, an Indian, unlawfully assaulted Jane Doe, an Indian female, by striking, beating or wounding resulting in serious bodily injury. The said assault took place within the exterior boundaries of the Acoma Indian Reservation in the Cibola County, District of New Mexico.

This criminal complaint is based on these facts:

See the herein attached Affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Marcelino A. ToersBijns

Printed name and title

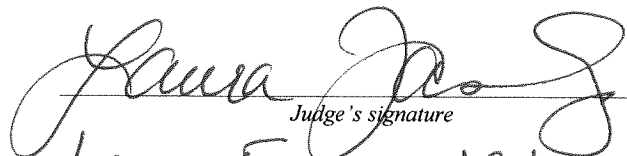
Sworn to before me and signed in my presence.

Date:

1/11/2016

City and state:

Albuquerque, NM



Judge's signature

Laura Fashing, U.S. Magistrate

Printed name and title

Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)

VS.)

) Case No: _____

RANDALL J. MARTINEZ (YOB: 1991)

AFFIDAVIT

1. I, Marcelino A. ToersBijns have been a Law Enforcement Officer for 26 years and performed law enforcement duties as a Correctional Officer, Police Officer, Juvenile Investigator, Disciplinary Officer, Detective, Criminal Investigator, Special Agent, Internal Affairs Agent, and Supervisory Special Agent, while employed with various Law Enforcement entities. For the past 20 years, I have been employed with the Bureau of Indian Affairs, Law Enforcement Division and am currently a Special Agent. My primary duties as a Special Agent are to investigate major criminal offenses, which occur within the boundaries of the Indian reservations to which I am assigned. Assault investigations are one of my responsibilities. The information set forth in this affidavit is known to me as a result of my own investigation or has been communicated to me by other law enforcement officers, agencies or agents.

2 Because this affidavit is being submitted for the purpose of securing a Warrant for Arrest, I have not included each and every fact known to me concerning this investigation. I have set forth facts I believe are necessary to establish Probable Cause to arrest RANDALL J. MARTINEZ (YOB: 1991) for the Assault of JANE DOE (YOB: 1993); Resulting in Serious Bodily Injury, in violation of Title 18, United States Code,

Section 1153, 113(a)(6). RANDALL J. MARTINEZ will be referred to as MARTINEZ throughout this affidavit.

3. On Sunday, December 27, 2015, Acoma Tribal Police responded to house #111A Shutivaville, a residence located in Acoma Pueblo, State of New Mexico. JANE DOE had called the Acoma Police Department requesting for police assistance as she wanted to leave her boyfriend's residence. Police responded and made contact with JANE DOE. JANE DOE told police she was "tired of it" and wanted to leave. JANE DOE told police she was physically assaulted by MARTINEZ several days' prior and showed police her bruising on her arms and a missing bottom tooth. Police photographed the reported injuries and provided JANE DOE with a police escort to a relative's residence. Acoma police completed their investigation and MARTINEZ was subsequently arrested for Domestic Violence, Aggravated Assault and was charged with other Tribal criminal charges relating to the reported assault by JANE DOE.

4. On Monday, December 28, 2015, Bureau of Indian Affairs, Office of Justice Services, Laguna Agency Special Agent (SA) MARCELINO TOERSBIJNS was contacted and notified about JANE DOE'S reported assault. A Federal investigation was initiated. SA ToersBijns conducted an interview with JANE DOE. JANE DOE and MARTINEZ are intimate partners and have been in a relationship since May 2014. JANE DOE has been living with MARTINEZ at his residence since June 2015. On Monday, December 21, 2015, she went to a Christmas party gathering sponsored by her current employment. She got home and everything was fine. During the early morning

hours, after midnight, JANE DOE was lying face down on the bed in the bedroom. JANE DOE and MARTINEZ were having a discussion about MARTINEZ' children and his children's mother. During their conversation, JANE DOE made a statement, "Your damn kids." JANE DOE stated MARTINEZ reacted by turning on the light and pulled her off the bed by her legs resulting in JANE DOE falling onto the floor faced down. MARTINEZ told her to get out of his house. JANE DOE tried leaving and MARTINEZ blocked the door keeping her from leaving. JANE DOE stated MARTINEZ grabbed her by her arms and forcibly pushed her down causing her to fall onto the floor faced down. She got up and they ended up back in the bedroom.

5. JANE DOE was again pushed onto the floor and MARTINEZ got on top her and placed one of his knees on her stomach and the other on her chest. JANE DOE stated she was having hard time breathing and it felt like a large sack of flour was on top of her. JANE DOE started to scream in hopes the neighbors would hear her. MARTINEZ put his hand over her mouth to keep her from screaming. When MARTINEZ had his hand over her mouth, one of his fingers went inside her mouth. JANE DOE bit down on his finger to stop him. MARTINEZ reacted by pulling his finger out of her mouth resulting in one of her bottom teeth to be pulled out from the root. JANE DOE stated MARTINEZ apologized to her and she apologized as well to keep matters calm. JANE DOE stated she did not initially report the assault to police because she did not want MARTINEZ to get into trouble. When JANE DOE went to the Acoma/Canoncito/Laguna (ACL) Hospital, she lied to medical staff saying she was in a

“cat fight” and did not tell them the truth. JANE DOE told SA TOERSBIJNS that MARTINEZ was the person who physically assaulted her.

6. SA ToersBijns photographed JANE DOE’S reported injuries. The taken photographs depict aged bruising on her arm(s), shoulder(s) and missing bottom front tooth. During the interview with JANE DOE and while SA ToersBijns took photographs, JANE DOE described the pain she felt, shortly after her tooth was pulled out by MARTINEZ, as being at an 8 pain level, using a 1 to 10 pain scale reference with 10 being the worst. JANE DOE reported the pain level lasted for about two days until she started taking pain medication.

7. SA ToersBijns conducted an interview with JANE DOE’S mother and her siblings. JANE DOE’S mother and the younger sister recalled JANE DOE going to a work Christmas gathering on Monday, December 21, 2015. The day after, both JANE DOE’S mother and younger sister noticed JANE DOE was missing a tooth. JANE DOE later told them she was physically assaulted by MARTINEZ. JANE DOE’s mother stated she has had previous concerns of her daughter being physically abused by MARTINEZ on prior occasions. However, she and JANE DOE never discussed these concerns. JANE DOE’S mother described JANE DOE as being secretive about her personal life.

8. SA ToersBijns conducted an interview with MARTINEZ. Prior to the interview, MARTINEZ was advised the nature of the interview and was advised of his Constitutional Rights. MARTINEZ initially waived his rights and provided a statement. Martinez stated he was not responsible for JANE DOE'S injuries and that JANE DOE was in a physical altercation with other people. During the interview, SA TOERSBIJNS took visual notice of an injury on MARTINEZ'S left index finger. MARTINEZ reported he received the injury from using an electrical tool, days prior. During the course of the interview MARTINEZ exercised his Constitutional Rights and no further questions were asked.

9. SA ToersBijns obtained JANE DOE'S medical/dental records from the ACL Hospital in Acoma, New Mexico. Upon review of documents, JANE DOE was seen on Wednesday, December 23, 2015. She was missing a tooth (identified as tooth #25 on a dental reference chart). The care provider's notes state, "Knocked out yesterday; pt was in a fight."

10. The victim is **JANE DOE** (YOB: 1993), a Native American female and an enrolled tribal member of the Acoma Indian Tribe, State of New Mexico

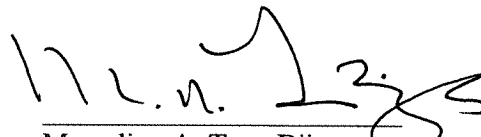
11. The suspect is **RANDALL J. MARTINEZ** (YOB: 1991), a Native American male and an enrolled tribal member of the Acoma Indian Tribe, State of New Mexico.

12. The assault occurred at #111A Shutivaville, the MARTINEZ residence. This residence is located in Cibola County, State of New Mexico and is within the exterior boundaries of the Acoma Indian Reservation, State of New Mexico.

13. Based on the above mentioned facts, known to me concerning this investigation, the Affiant believes probable cause exists to arrest **RANDALL J. MARTINEZ** for the crime of Assault Resulting in Serious Bodily Injury, in violation of Title 18, United States Code, Sections 1153 & 113(a)(6).

A review of the criminal complaint was made by Supervisory Assistant United States Attorney Kyle Nayback, State and District of New Mexico

I swear this information is the truth to the best of my knowledge and belief.


Marcelino A. ToersBijns
Special Agent
BIA/OJS Laguna Agency

Subscribed and Sworn to before me
This 11th Day of January 2016


United States Magistrate Judge